

INITIAL STATEMENT OF REASONS REGISTRATION SERVICES

The Registration Service Program was implemented in 1991. A registration service is defined as a person engaged in the business of soliciting or receiving any application for the registration, renewal of registration, or transfer of registration or ownership, of any vehicle of a type subject to registration under the California Vehicle Code, or of transmitting or presenting any of those documents to the department, when any compensation is solicited or received for the service.

"Registration Service" includes, but is not limited to, a person who, for compensation, processes registration documents, conducts lien sales, or processes vehicle dismantling documents.

"Registration Service" does not include any of the following:

- A person performing registration services on a vehicle acquired by that person for his or her own personal use or for use in the regular course of that person's business.
- A person who solicits applications for or sells, for compensation, nonresident permits for the operation of vehicles within this state.
- An employee of one or more dealers or dismantlers, or a combination thereof, who performs registration services for vehicles acquired by, consigned to, or sold by the employing dealers or dismantlers.
- A motor club, as defined in Section 12142 of the Insurance Code.
- A common carrier acting in the regular course of its business in transmitting applications.

Since the implementation of this program, there have been increasing problems with fraudulent activity, unlicensed activity, and poor consumer protection. The primary problems are:

- Fraudulent activity by licensed registration services. This includes misuse of DMV information, failure to perform required vehicle verifications, knowingly completing transactions with false or inaccurate information, inappropriate release of information from DMV records, and misrepresenting to the public what portion of fees paid actually are retained by the registration service. These practices have made vehicle theft easier, whether the registration service is knowingly involved, or simply makes the theft easier because of failure to require verifications or appropriate documentation. In some cases, issuance of multiple types of occupational licenses/authorizations (i.e., registration service, commercial requester, vehicle verifier) facilitates illegal activity.

- The department is unable to determine who is a registration service employee and who is a registration service subcontractor. Registration services claim they have no liability for the activities of subcontractors.
- Unlicensed registration service activity. When an individual presents himself as a registration service owner or employee, field office personnel have no means to validate this. With over 800 registration services currently in operation, there is currently no feasible way to verify if the individual does represent a registration service.
- Untrained registration service personnel (both owners and employees). DMV employees frequently do the actual preparation and completion of transactions that are submitted by a registration service because transactions are submitted incomplete with poorly estimated fees. DMV provides a list of requirements, determines the actual fees due, etc., before returning the transaction to the registration service. This process results in delays for the registration service's customer, may result in penalties for the customer, and increases the workload at the field offices. This practice ultimately impacts DMV's ability to serve the public in field offices.
- The department cannot identify those transactions that are submitted by a registration service once the transaction is completed. This impacts DMV's ability to monitor and audit registration services based on inaccurate or fraudulent work.

In order to prevent fraudulent activity and consumer harm, it is essential that the following amendments be made:

Section 330.02. Information Required on a Registration Service Application for an Original License

In the past, the field investigations offices handled most occupational licensing fieldwork. Now, the department has established occupational licensing branch offices. This change is reflected in subparagraph (a).

Subparagraph (b) gives the updated version of the form OL 601. The form OL 601 is part of the original application.

Due to the level of fraud and unlicensed activity in the industry, it is necessary to know who is involved in the ownership of the business. The regulations proposed are designed to hold ownership accountable for the actions of its employees. It is therefore necessary to know who is involved in the ownership of the business. Because registration services are currently unaware of which stockholders must be disclosed, paragraph (b)(4) is being amended to add clarity. In many corporate structures a very small percentage of stock allows complete control of the corporation. The department has chosen 10% because that is the percentage of stock that would have significant leverage in the average corporate structure. The department should be made aware of those individuals involved in the operation of the business. This change may be reflected on the form OL

601 which was previously discussed. Also, corporations periodically purchase percentages of stock in other corporations. If this happens with a registration service, the proposed language would require the purchasing corporation to identify its stockholders holding 10% or more interest in the business.

The department has a continuing requirement for information on employees of the registration services. Section 330.02 (b) (11) (A) has the residence address added to this subparagraph. The requirement is not new. It was previously reflected in subparagraph (D). Birth date and physical description information is being moved from subparagraph (E) to subparagraph (B). The requirements for driver license number or identification card number have been consolidated in subparagraph (C) with the issuing state information.

Because registration services have declined responsibility for subcontractors, it is important that the department identify the employees of the firm. One way is to obtain the date of employment. This information is now being requested in subparagraph (D).

Subparagraph (b) (11) (E) adds the requirement that the owner identify those employees who are authorized to sign transaction forms. This alleviates the problem of identifying authorized signatures on transaction forms in lieu of the registration service owner. The department must be able to determine that only authorized personnel are submitting registration work for a registration service. Registration services have frequently taken no responsibility for subcontractors submitting work on their behalf.

330.02 (b) (11) (F) - The department must be able to determine who is an authorized employee and who is authorized to sign application documents for the business. The amended language requires that this list be signed under the penalty of perjury. This will hold the registration service owner responsible and can be used in an enforcement action by the department. Fraudulent activity by registration services has necessitated this change wherein confidential information has been misused and false and inaccurate documents have been submitted to the department. These activities have, in some cases, aided in vehicle theft.

Section 330.06. Fingerprints

Fingerprints must be reviewed by the Department of Justice. The Department of Justice will no longer accept fingerprint cards from state agencies that perform background checks on applicants for licenses. Agencies must now use the Live Scan form (DMV 8016 (New 11/99) (BCII 8016)) submitted to a Live Scan facility. The use of Live Scan fingerprinting captures an image of a fingerprint and electronically transmits the image to the Department of Justice. The amendments in Section 330.06 (a), (b), (b) (6), (b) (7), (b) (10), (b) (11), and (c) reflect this requirement and use of this new form.

Section 330.20. Employee Changes

The department must be able to determine that only authorized personnel are submitting registration work for a registration service. Registration services have frequently taken no responsibility for subcontractors submitting work on their behalf. The department must be able to determine which employees are authorized to submit and sign application documents for the business. Although the requirement for updated employee lists is not new, requiring the new list prior to acceptance of work from a new employee, as reflected in Section 330.20 (a), should encourage registration services to be more vigilant regarding submitting updated employee lists. Upon approval of these regulations, registration services will be reminded in writing to submit a current employee listing and that only employees listed will be allowed to submit, pick-up or deliver work to department field offices.

The amendment in Section 330.20 (b) incorporates the current version of the Application for Changes to an Occupational License for Registration Service, Form OL 600. A nonsubstantive grammatical amendment has been made in Section 330.20 (b)(8).

Fraudulent activity committed by some registration services has made it necessary for the department to require the owners to identify the employees authorized to sign transaction forms in lieu of the owner. This amendment is reflected in Section 330.20 (b) (9).

Confidential information has been misused and false and inaccurate documents have been submitted to the department. These activities have in some cases aided in vehicle theft and unlicensed activity. There have been numerous occasions where the registration service owner denies responsibility for the actions of either employees or subcontractors. The amendment to Section 330.20 (b) (10) requires the owner to sign a statement under the penalty of perjury accepting full responsibility for the actions of the employees of the business.

Section 330.32. Submitting Fees and Documents to the Department.

Although registration services are authorized seven departmental business days' delay in submitting any fees and documents received, Section 330.32 (b) (1) prohibits any delay in submission that would cause the fees to be subject to penalty by the department unless authorized by the client and such delay would not exceed the seven business day stipulation. The word, "notwithstanding" was added in subparagraph (b) (1) to clarify this requirement.

Section 330.32 (c) is being amended to require that the registration service submit a transaction authorization agreement for each transaction. This will provide the department with the registered owner's signature as well as the signature of an authorized representative of the registration service. This procedure will act as a deterrent to fraudulent activity. It will also serve to provide the department with a traceable document for audit purposes.

When a registration service applies for an original license, they complete form OL 607, Registration Service Questionnaire. They indicate a preference for an office(s) and determine an average number of items that will be processed on a monthly basis. The form is then routed, geographically, to the departmental field office regional office. The regional office determines the assignment of an office that can meet the needs of the registration service. Unfortunately, registration services have not been held to this assignment. The amendment in Section 330.32 (d) will require the registration service to use the field office to which it has been assigned.

Designating the office a registration service may utilize will allow the department to control the work load impact of a registration service, direct the registration service to an industry center, if appropriate, and provide each field office with an employee list for the registration services assigned to that office.

Section 330.32(e) also requires that the registration service employee present either a driver license or identification card in order to receive service at a department office. This requirement is to ensure that unauthorized personnel are not submitting documentation to the department. It also requires that registration service personnel be identified, in advance, to the department. The language in this section will give the department the authority to refuse any documentation that is presented by someone who is not on the registration services' list of authorized representatives.

Section 330.32 (f) is an existing requirement with no change in the language. It has been renumbered from Section 330.32 (d).

Registration services frequently submit applications to the department with missing or incomplete documentation. This results in an inordinate wait time for other customers of the department. Therefore, Section 330.32 (g) is being added to permit the department employees to return transactions due to missing or incomplete documentation.

In order to reduce the incidents of fraud, the department is requiring that requests for substitute vehicle license plates be made in person by the owner of the vehicle. For this cause, Section 330.32 (h) prohibits registration services from submitting these requests except when processing work for a dealer, or a member of an International Registration Plan or Permanent Fleet Registration. Documents verifying these exceptions shall be required.

Some registration services have enrolled in a special Business Partners program with the department. Business partners are provided an increased level of access to departmental records and databases. Businesses enrolled in this program have signed a separate Business Partnership agreement which provides guidelines for submission of work to the department. Business Partners, International Registration Plan (IRP) enrollees and Permanent Fleet Registration (PFR) program participants are being exempted from submission of the transaction

authorization agreement described in Section 330.42. This exemption is expressed in Section 330.32(i).

Section 330.32 (j) provides for use of the Registration Transaction Authorization Agreement Dealer/Dismantler, form REG 600A (New 9/2001), which will allow registration services to enter into an agreement to perform work for dealers and dismantlers without necessitating a separate authorization for each transaction. These businesses require an above average amount of registration transactions to conduct their day-to-day business. It would be cumbersome for them to complete an authorization form for each transaction.

Section 330.32 (k) provides an exception for Registration Services that process identical transactions for an individual registered owner. As an example, a trucking company may choose to have a registration service process the documents on a large purchase of vehicles. Each transaction would be identical and the registered owner would be the same. For transactions of this type, the department is allowing the service to submit a Transmittal of Registration Applications, Form FO 247, along with the completed Transaction Authorization Agreement, Form REG 600 (NEW 9/2001).

Section 330.42. Information for Clients.

A Registration Transaction Authorization Agreement, Form REG 600 (NEW 9/2001), captures the approval of the vehicle owner and the registration service owner to submit the documents to the department. This requires the use of a transmittal form per item, which would include a unique number identifying the registration service and the item for use in future audits. Use of the transmittal form, maintained as part of the business records, provides documentation of the origin of the transaction, which also aids in audit tracking. Use of this form will reduce and or eliminate fraud and unlicensed activity. Section 330.42 (c) explains that these forms are to be used in sequence and are not transferable to other registration services.

Section 330.42 (a) (1) requires the registration service to maintain a copy of any agreement between the service and the client. This information is now captured on the Registration Transaction Authorization Agreement, Form REG 600 (9/01). Instructions regarding use, information contained on, and distribution of the form is provided in subparagraphs (b) (1) through (e) (3). Therefore, subparagraph (a) (1) is proposed to be repealed.

The information being deleted from Section 330.42 (b) has been moved to Section 330.42 (b) (1). The new language assists in the restructuring of this Section.

The Registration Transaction Authorization Agreement (REG 600 (NEW 9/2001)) is a numbered form. While it is not an accountable item, the department will be able to identify which registration service received which forms. These forms will be issued to registration services at no charge. Section 330.42 (b) (2) refers to the numbering on the forms.

Section 330.42 (b) (3) requests identifying information (name and occupational license number) from the registration service. The information is required in order to verify that the documentation is being submitted from a licensed registration service.

Section 330.42 (b) (4) requires information that identifies the vehicle being dealt with in the transaction. This information is necessary for audit purposes, in that it provides a paper trail that links a registration transaction to a particular registration service.

Section 330.42 (b) (5) requires information regarding the type of transaction. This is necessary because transactions of differing types are processed differently. Different areas in DMV headquarters also handle them. Identification of the type of transaction will aid in ensuring the documentation reaches the appropriate headquarters unit.

Section 3 of the Registration Transaction Authorization Agreement, REG 600 (New 9/2001), is set aside for client authorization of the registration services work. Section 330.42 (b) (6) requires the true full name of the registration service client. True full name information can be matched to departmental databases if necessary for investigations of fraudulent activity.

Not only does Section 330.42 (b) (7) request information that could be used in a fraud investigation, it also obtains information on how to contact the client should there be any questions that are not answered in the documentation.

Section 330.42 (b) (8) requires the client's driver license or identification card number and the state of issuance. This identity information can be verified against the department's database or the databases of other states with which the department has reciprocal agreements.

Section 330.42 (b) (9) requires the registration service employee to verify the identification that was presented and to sign the form stating that they have verified the identification. This additional signature requirement is intended to encourage registration services to verify identities of their clients.

Section 4 of the REG 600 (New 9/2001), Registration Transaction Authorization Agreement, requires itemization of the fees being collected. This includes the fees collected as an estimate of the department's fees, any service charges from the registration service, the total amount collected and the method of payment (Sections 330.42 (b) (10), (b) (11), and (b) (12)). Gathering this information on this form provides a receipt to the client, a record for the registration service, and an audit device for the department.

Section 6 of the REG 600 (New 9/2001), Registration Transaction Authorization Agreement, requires the registration service owner or authorized representative to take responsibility for the submission of documents to the department. It also identifies the employee or other representative that will be submitting the documents to the department. This removes the owner's ability to deny

responsibility for transactions. Section 330.42 (b) (13) and (b) (14) inform owners of the requirements for their business address, telephone number, and signature, as well as the true full name and signature of the authorized registration service employee.

Section 7 of the above noted form requires a final statement of fees. This includes a statement of the total department fees collected. This would include the estimated fees collected in addition to any additional fees collected at a later time, and the dates of each occurrence. There is also an area that will show whether any department fees were refunded as well as the reason and date. Section 7 also includes an area that reflects the total service charges collected by the registration service. This information is reflected in Section 330.42 (b) (15).

As indicated in Section 330.42 (b), each Authorization Agreement includes a unique preprinted number that has been assigned by the department. To prevent fraudulent distribution/ submittal of these forms, the department maintains a record of which forms were sent to each Registration Service. In order to maintain the integrity of this data, Section 330.42 (c) has been added.

Section 330.42 (d) is added to ensure the registration services use the above referenced form. The exemption mentioned in this paragraph was discussed previously in this Initial Statement of Reasons in the discussion of Section 330.32.

The REG 600 (New 9/2001), Registration Transaction Authorization Agreement, is to be completed in triplicate. The distribution of the copies is discussed in Section 330.42 (e), (e) (1), (e) (2), and (e) (3). These instructions are to ensure that all interested parties have a copy of the document for either record or audit purposes.

Because the REG 600 (New 9/2001), Registration Transaction Authorization Agreement, forms are numbered and distributed to registration services as previously discussed, it is essential that the department be kept informed of the status of these forms. This is another method to prevent fraudulent activity. In the event that a form has been reported lost or voided, the department will be alerted immediately of an attempted fraud simply by verifying the form number. The requirement to maintain accurate records of these forms is located at Section 440.32 (f).

Section 440.32 (g) prohibits duplication of the form, again, in an effort to prevent fraudulent activity.

Section 330.44. Listing Sheet for Transmitting Registration Documents.

Section 330.44 (a) is being amended to include the newest version of the Transmittal of Registration Applications, Form FO 247. However, there have been no substantive revisions to this form.

The additional reference to Vehicle Code Section 11407 has been added because the Registration Service should maintain a copy of this form. Vehicle Code Section 11407 requires a retention period of 4 years.

Section 330.46. Incomplete Transactions.

This amendment is a nonsubstantive change to section 330.46 (a) (2) to delete a repeated word.

Section 330.48. Maintenance and Inspection of Business Records

Each REG 600 (New 9/2001), Registration Transaction Authorization Agreement, form has a unique identifying number. The original of this form is submitted to the department with the registration documentation. The department will issue these forms to the registration services noting which services have which forms. The identifying number is the most efficient means of auditing, tracking, and/or investigating specific transactions through the registration services. Therefore, the proposed language in Section 330.48 (e) requires the records to be maintained or retrievable using this identifying number.

Section 330.48 (f) provides that registration services are required to store and secure their business records in such a manner that confidentiality of their clients' information is maintained.

Section 330.48 (g) provides that business records maintained by the approved listing sheet be kept in date order. This again will provide for efficiency during auditing, tracking, and/or investigating transactions through registration services.

Section 330.54

The information contained in this section is already covered by current statute in Vehicle Code Section 11405. Retaining this regulatory language could be interpreted by a court as narrowing current statute, which is not the department's intent. Therefore, this section is proposed for repeal.